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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,940	04/05/2004	Koichi Miyamoto	Q80764	2298

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SUGHRUE MION, PLLC
2100 Pennsylvania Avenue N.W.
Washington, DC 20037-3213

EXAMINER

CARIASO, ALAN B

ART UNIT PAPER NUMBER

2875

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/816,940

Applicant(s)

MIYAMOTO ET AL.

Examiner

Alan Cariaso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4 is/are rejected.
- 7) ☒ Claim(s) 2, 3 and 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. Figures 5a and 5b should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: Page 1, 3rd paragraph, "SUMMAR" is misspelled.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by GREENHUT (US 1,058,049).

6. GREENHUT discloses a hand tool comprising a holder portion (handle 1) from which a plurality of tools (a,b,c,d,e) can be selectively swung out for use (fig.3), said holder portion (1) comprising two holder plates (side plates 2,2) disposed opposite to each other with a distance provided there between (fig.4), and three connecting axles (6,12,30) connecting the two holder plates (2,2), wherein said two holder plates (2,2) each include three protruding plate portions (lower left extension '2', upper left 16, and right extension 30 in figs.1-3) from a plate center portion (center of handle 1 in fig.1) in three directions, wherein said three connecting axles (6,12,30) are individually fixed to said three protruding plate portions (2,16,30) and where said plurality of tools ((a,c,5),(b), (can opener)) are supported by said three connecting axles (6,12,30) individually in a freely swinging manner and are accommodated within said distance (fig.4).

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by LIN (US 5,970,553).

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8. LIN discloses a hand tool comprising a holder portion (10) from which a plurality of tools (20,46-50) can be selectively swung out for use (figs.3A-5), said holder portion (10) comprising two holder plates (12,12) disposed opposite to each other with a distance provided there between (fig.1), and three connecting axles (42,52,215) connecting the two holder plates (12,12), wherein said two holder plates (12,12) each include three protruding plate portions (semi-circles about 16,17 and right extension about 121) from a plate center portion (52) in three directions, wherein said three connecting axles (42,52,215) are individually fixed to said three protruding plate portions (about 16,17,121) and where said plurality of tools ((46-49),(50), (20)) are supported by said three connecting axles (42,52,215) individually in a freely swinging manner and are accommodated within said distance.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over LIN (US 5,970,553) in view of MOSCH (US 2,412,056).

11. LIN discloses the claimed invention except an illuminating device for illuminating the tip of the tool and being adapted to be pulled from and pushed back into said holder portion. MOSCH teaches a flashlight (4) removably inserted into cavity (2 or 3) for the

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purpose of illuminating a tool pivoted in a useable position (fig.2, 5) and adapted to be pulled from and pushed back into the holder (23) for the purposes of replacing a spent lighting device for a working one (bulb or battery) and accommodating a lipstick holder (fig.9) and thread spool holder (fig.10) (col.2, lines 45-51). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the tool set device of LIN to include the type of removable inserted flashlight as taught by MOSCH in order to illuminate the out-pivoted tools and to exchange the flashlight from the tool holder for another working flashlight or other objects that the user finds useful.

Allowable Subject Matter

12. Claims 2, 3 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. The following is a statement of reasons for the indication of allowable subject matter: None of the prior art of record suggests: the three connecting axles being fixed at positions displaced from a center line of each protruding plate portion; said stopper axle being fixed between said two holder plates such that as any of said plurality of tools is swung out and abutted against said stopper axle and a center line of the tool that has been swung out is substantially aligned with the center line of said protruding plate portion; said illuminating device being disposed at the center of said holder portion and is supported rotatably in said holder portion.


Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. KAAS (US 1,187,842) shows a tool holder of two outside plates (b,b') connected to each other and containing tools pivoted about at least three axles (c, 4 of them, one at each corner). CHEN (US 6,454,427) shows a positionable tool(s) in a holder that is illuminated by a hidden light source. VOIGHT (US 5,487,291) shows a case (22) of plural tools radially positioned, at least one tool (figs.9 & 11) removable from the case with an illuminating device (28). HSIAO (US 6,092,444) shows a tool holder of pivoting tools including side plates (11) and a center stopper axle (174) that stops or maintains one position of each pivotal tool.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cariaso whose telephone number is (571) 272-2366. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alan Cariaso
Primary Examiner
Art/Unit 2875

October 1, 2005
AC